

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

IN THE MATTER OF:
Buffalo Compressor Station
Buffalo, Harper County, Oklahoma

Williams Gas Pipelines Central, Inc.,

Respondent

ADMINISTRATIVE ORDER ON
CONSENT FOR REMOVAL ACTION

U.S. EPA Region 6
CERCLA Docket No. 6-07-02

Proceeding Under Sections 104, 106(a), 107
and 122 of the Comprehensive
Environmental Response, Compensation,
and Liability Act, as amended, 42 U.S.C. §§
9604, 9606(a), 9607 and 9622

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Order on Consent ("Order") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and Williams Gas Pipelines Central, Inc. ("Respondent"). This Order provides for the performance of a removal action by Respondent at or in connection with the property located in the NE/4, NE/4 of Section 1, Township 27 North, Range 23 West in Buffalo, Harper County, Oklahoma, the "Buffalo Compressor Station" or the "Site."

2. This Order is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622, as amended ("CERCLA").

3. EPA has notified the State of Oklahoma (the "State") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. EPA and Respondent recognize that this Order has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Order do not constitute an admission of any liability. Respondent does not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the findings of facts, conclusions of law, and determinations in Sections IV and V of this Order. Respondent agrees to comply with and be bound by the terms of this Order and further agree that they will not contest the basis or validity of this Order or its terms.

II. PARTIES BOUND

5. This Order applies to and is binding upon EPA and upon Respondent and its successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Order.

6. Respondent is jointly and severally liable for carrying out all activities required by this Order. In the event of the insolvency or other failure of the Respondent to implement the requirements of this Order, the remaining Respondents shall complete all such requirements.

7. Respondent shall ensure that their contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondent shall be responsible for any noncompliance with this Order.

III. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "Action Memorandum" shall mean the EPA Action Memorandum relating to the Site signed on May 20, 2002, by the Regional Administrator, EPA Region 6, or his/her delegate, and all attachments thereto. The "Action Memorandum" is attached as Appendix A.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

c. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

d. "Effective Date" shall be the effective date of this Order as provided in Section XXX.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

g. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Order, verifying the Work, or otherwise implementing, overseeing, or enforcing this Order, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 38 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), Paragraph 48 (emergency response), and Paragraph 72 (work takeover).

h. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

l. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

m. "Order" shall mean this Administrative Order on Consent and all appendices attached hereto (listed in Section XXIX). In the event of conflict between this Order and any appendix, this Order shall control.

n. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.

o. "Parties" shall mean EPA and Respondent.

q. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

r. "Respondent" shall mean Williams Gas Pipelines Central, Inc.

s. "Section" shall mean a portion of this Order identified by a Roman numeral.

t. "Site" shall mean the Buffalo Compressor Superfund Site, encompassing approximately eighteen (18) acres, located in the NE/4, NE/4 of Section 1, Township 27 North, Range 23 West in Buffalo, Harper County, Oklahoma and depicted generally on the map attached as Appendix B.

u. "State" shall mean the State of Oklahoma.

v. "Waste Material" shall mean 1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and 3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

w. "Work" shall mean all activities Respondent is required to perform under this Order.

x. "Work Plan" shall mean the approved plan for implementation of the removal action at the Site as set forth in Appendix C to this Order. Upon approval by EPA, the Work Plan shall be incorporated into this Order and be an enforceable part of this Order.

IV. FINDINGS OF FACT

9. Williams Gas Pipelines Central, Inc. (hereinafter "Williams" or "Respondent") is a corporation which is incorporated in the State of Delaware and authorized to do business in the State of Oklahoma.

10. At times relevant to this proceeding, Williams owned and operated a main line natural gas compressor station located near Buffalo, Harper County, Oklahoma. For convenience in this Order, this compressor station will be referred to as the Buffalo Compressor Station. The Buffalo Compressor Station is located approximately one mile northeast of Buffalo,

Oklahoma, and is an 18-acre facility. The property is located in the NE/4, NE/4 of Section 1, Township 27 North, Range 23 West. Neighboring properties are primarily used for agricultural purposes. The Buffalo Compressor Station was in service from the mid 1960s to the early 1970s.

11. Main line compressor stations, such as the Buffalo Compressor Station, use large horsepower compressors to move large volumes of natural gas through the transmission lines to Williams' customers or other pipeline transmission or distribution firms. These compressors are started with compressed air, which is generated by an air compressor and stored prior to use in pressurized air receiver tanks. The compressed air system is not directly connected to the natural gas system.

12. One building was divided into the engine room area (southern portion) and the auxiliary area (northern portion). The air compressor system was located in the auxiliary area. After the compressed air was produced it was dried in an air dryer and passed through air lines to the air receiver storage tanks. Due to changes in temperature and pressure, condensate accumulated in the air dryer and air receiver storage tanks. In the past, condensate from the air dryer and air receiver tanks may have been directed to a drain line which fed into an underground drainage system. The underground drainage system consisted of a drain line that ran southwesterly to an evaporation pond located near the southwest corner of the site.

13. Lubricants containing polychlorinated biphenyls ("PCBs") may have been used at the Buffalo Compressor Station facility in the air compressor system. Polychlorinated biphenyls are defined in 40 C.F.R. § 761.3 as any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contain such substance.

14. Over time, PCB-contaminated lubricants may have migrated from the air compressor units to the air dryers and air receiver tanks, where it could be released as PCB-contaminated condensates. In April 1994, Williams authorized ERM Rocky Mountain to conduct a Site Screening Investigation to determine whether PCBs had migrated from the air compressor units to the air line header, the engine room basement, or soil in the former air receiver area, the former air discharge area, the former prelube air pipe area, and the backfilled impoundment. Soil samples were also collected from upgradient and downgradient locations, all on-site. The results of this investigation revealed PCB contamination exceeding 25 mg/kg in one soil sample collected from the former air receiver area with 38 mg/kg (also referred to as parts per million or ppm). Four additional soil samples contained PCB concentrations between 9.4 and 21.0 mg/kg or ppm.

15. In 1995, Burlington Environmental ("Burlington") conducted an evaluation of the presence of PCB on metallic surfaces (primarily piping) and concrete surfaces including concrete floors and pipechases. Due to the presence of water in the basement Burlington did not investigate the presence of PCB in the basement. Burlington collected 48 wipe samples and submitted them for laboratory analysis. Nine samples contained PCB concentrations exceeding 10 $\mu\text{g}/100\text{ cm}^2$: One from the floor of the auxiliary area, seven from auxiliary area pipechases, and one from a pipe to the air receivers.

16. In 1995, SECOR International Inc. (SECOR) performed a site characterization of the basement floor following removal of non-PCB water, sludge, and oil that had collected in the basement. Analytical results of the sludge and oil samples collected from the basement did not have concentrations of PCB exceeding 1.0 mg/kg. Subsequently SECOR performed concrete cleaning and removal of piping inside the building where the previous investigations had detected elevated concentrations of PCB. Wipe samples were collected to verify the attainment of cleanup criteria. Any location where the verification sample exceeded 10 $\mu\text{g}/100\text{ cm}^2$ was cleaned and resampled until all target areas were below 10 $\mu\text{g}/100\text{ cm}^2$ PCB. Approximately 3,000 square feet of concrete were chemically cleaned of PCBs.

17. In 2000, Terracon performed soil and wipe sampling. Soil samples were collected from the impoundment because ERM had not sampled the former impoundment to Williams' satisfaction. Soil samples were also collected from the air receiver discharge area. Soil samples from the impoundment were analyzed for PCBs, RCRA metals, and SVOCs; soil samples from the air receiver discharge area were analyzed for PCBs. Two of the grids in the former impoundment were found to have PCB concentrations exceeding 10 mg/kg. RCRA metal and SVOC concentrations detected in the impoundment did not exceed regulatory criteria. Sixteen wipe samples were collected from the air lines, drain lines, and a concrete floor drain (located in the auxiliary area) that had not previously been sampled. Seven of 16 wipe samples collected contained concentrations of PCB greater than 10 $\mu\text{g}/100\text{ cm}^2$. These seven were collected from piping in the pipechase on the west side of the auxiliary area. A report of activities was submitted to EPA in May 2001.

18. Hazardous substances have been or are threatened to be released at or from the Site. The hazardous substances found at the Site are polychlorinated biphenyls.

19. Hazardous substances, pollutants or contaminants, including PCBs have been released from the facility. PCBs may have migrated via an underground drain line which feeds into the impoundment. Migration into these areas may continue unless some response action is taken.

20. PCBs are toxic chemicals which are extremely stable and persistent in the environment. The EPA uses a weight-of-evidence system to convey how likely a chemical is to be a human carcinogen. EPA has classified PCBs as probable human carcinogens (Group B2).

21. Potential routes of exposure for PCBs include inhalation of contaminated dust or volatilized contaminants, direct contact with and ingestion of contaminated dust, direct contact with and ingestion of contaminated soils, and ingestion of fruits, vegetables or animals contaminated by exposure to contaminated soil.

22. PCBs have been designated as hazardous substances pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act, 33 U.S.C. § 1321(b)(2)(A) and Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and have been listed as a toxic pollutant pursuant to Section 307(a) of the Federal Water Pollution Control Act, 33 U.S.C. § 1317(a).

23. a) Based on the administrative record for the Site, on May 20, 2002, the EPA Region 6 Superfund Division Director approved an Action Memorandum that included a finding that actual or threatened releases of hazardous substances, pollutants or contaminants from the Site, if not addressed by implementing the response action selected in the Action Memorandum, will continue to present an imminent and substantial endangerment to public health or welfare or the environment. The Action Memorandum is Appendix A to this Order and is incorporated herein.

b) The EPA Region 6 Superfund Division Director has determined that the total past and projected response costs of the United States at or in connection with the Site will not exceed \$500,000, excluding interest.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

24. Based on the Findings of Fact set forth above, and the Administrative Record supporting this removal action, EPA has determined that:

a. The Buffalo Compressor Station Site is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contamination found at the Site, as identified in the Findings of Fact above, includes “hazardous substance(s)” as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. Respondent is a “person” as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. Respondent is a potentially responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for performance of response action and for response costs incurred and to be incurred at the Site.

e. Respondent is the “owner” and/or “operator” of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

f. The conditions described in Paragraphs 9-19 of the Findings of Fact above constitute an actual or threatened “release” of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

g. The removal action required by this Order is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Order, will be considered consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

VI. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Order, including, but not limited to, all attachments to this Order and all documents incorporated by reference into this Order.

VII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR

25. Respondent shall retain one or more contractors to perform the Work and shall notify EPA of the name(s) and qualifications of such contractor(s) within forty-five (45) days of the Effective Date. Respondent shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least thirty (30) days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondent. If EPA disapproves of a selected contractor, Respondent shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within ten (10) days of EPA's written notice to Respondent of EPA's disapproval. Respondent shall demonstrate that the proposed contractor is in compliance with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). Respondent shall ensure that the QMP is prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by EPA.

26. Within 15 days after the Effective Date, Respondent shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondent required by this Order and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within 15 days following EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondent.

27. EPA has designated Ms. Rita Engblom of the , EPA Region 6, Response & Prevention Branch, as its On-Scene Coordinator ("OSC"). Except as otherwise provided in this Order, Respondent shall direct all submissions required by this Order to the OSC via overnight express mail to:

Ms. Rita Engblom (6SF-R1)
U.S. Environmental Protection Agency
Superfund Division
Response and Prevention Branch

1445 Ross Avenue
 Dallas, TX 75202-2733
 (214) 665-8341 (phone)
 (214) 665-7447 (fax)
Engblom.rita@epa.gov

28. EPA and Respondent shall have the right, subject to Paragraph 26, to change their respective designated OSC or Project Coordinator. Respondent shall notify EPA ten (10) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.

VIII. WORK TO BE PERFORMED

29. Respondent shall perform, at a minimum, all actions necessary to implement the Action Memorandum and the Statement of Work. The actions to be implemented generally include, but are not limited to, the following:

a. It is hereby agreed by the Parties that Respondent shall perform the tasks and submit deliverables with respect to the Buffalo Compressor Station to be set forth in the Work Plan document identified in Paragraph 30, below, entitled "Work Plan Buffalo Compressor Station, Williams Gas Pipelines Central, Inc., Buffalo, Oklahoma" (Work Plan), and as the Work Plan may be modified pursuant to Section XXVI, Modification, in accordance with the schedule and requirements set forth therein. All such work shall be conducted in accordance with CERCLA, the NCP, and EPA guidance including, but not limited to, the Office of Solid Waste and Emergency Response (OSWER) Directive No. 9355.4-01 "Guidance on Remedial Actions for Superfund Sites with PCB Contamination." For the purposes of this Order, day means calendar day unless otherwise noted in the Order and the word approved means (i) approved by EPA Region 6 or (ii) agreed to under the Work Plan.

b. Within forty-five (45) days of the effective date of this Order, Respondent shall submit to EPA for review and approval a detailed Work Plan, with a schedule, for the following areas:

- a. Impoundment-- Excavate all PCB contaminated soils within the impoundment area that are above the cleanup standard of 1 mg/kg or to less than 10.0 mg/kg with construction of a cap in accordance with 40 CFR § 761.61(a)(7) and (a)(8). The excavated soils shall be excavated and disposed of in accordance with an approved work plan. After verification that cleanup standards have been achieved, the excavated area shall be backfilled, graded to previous contours and covered with at least 10 inches of clean topsoil. General measures for erosion control will be implemented, including the placement of silt fences, where appropriate, and seeding.
- b. Drain Line and Air Line Piping-- The drain line to the impoundment and the underground air lines in the air receiver or auxiliary

building areas exhibiting surface PCB concentrations in excess of 10 $\mu\text{g}/100 \text{ cm}^2$ shall be removed. The lines shall be removed and disposed of in accordance with an approved work plan. The Work Plan shall include plans for final verification sampling to document compliance with the maximum PCB concentration of 10 $\mu\text{g}/100 \text{ cm}^2$ on lines remaining in place. The Work Plan shall also include plans for (1) identification of locations of potential PCB migration out of the lines, such as defects, points of ingress and egress, etc., (2) addressing PCB concentrations in soil above 1 mg/kg where the release of PCBs may have occurred, and (3) verification sampling of soils beneath excavated areas documenting PCB concentrations of 1 mg/kg or less than 10 mg/kg with construction of a cap in accordance with 40 CFR § 761.61(a)(7) and (a)(8). After removal of lines and PCB contaminated soil, and verification that the cleanup standards have been achieved, excavated areas will be backfilled, graded to previous contours and covered with at least 10 inches of clean topsoil. General measures for erosion control will be implemented, including the placement of silt fences, where appropriate, and seeding.

- c. Air Compressor Area-- Excavate all PCB contaminated soils from the air compressor area that are above the cleanup standard of 1 mg/kg or to less than 10.0 mg/kg with a cap meeting the requirements of 40 CFR § 761.61(a)(7) and (a)(8). The excavated soils shall be excavated and disposed of in accordance with an approved work plan. After verification that the cleanup standards have been achieved, the excavated area shall be backfilled, graded to previous contours and covered with at least 10 inches of clean topsoil. General measures for erosion control will be implemented, including the placement of silt fences, where appropriate, and seeding.
- d. Off-Site Treatment and Disposal-- All materials removed from the Buffalo Compressor Station shall be disposed of at a facility approved by the On-Scene Coordinator and in accordance with the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. § 6901 et seq., as amended, the EPA Off-Site Rule, and all other applicable Federal, State, and local requirements. The proposed methods of disposal shall be set forth in the Work Plan.

30. Work Plan and Implementation.

- a. Within ten (10) days after the Effective Date, Respondent shall submit to EPA for approval a draft Work Plan for performing the removal action generally described in Paragraph 29 above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Order. The QAPP should be prepared in accordance

with “EPA Requirements for Quality Assurance Project Plans (QA/R-5)” (EPA/240/B-01/003, March 2001), and “EPA Guidance for Quality Assurance Project Plans (QA/G-5)” (EPA/600/R-98/018, February 1998).

b. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan in whole or in part. If EPA requires revisions, Respondent shall submit a revised draft Work Plan within thirty (30) days of receipt of EPA’s notification of the required revisions. Respondent shall implement the Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Order.

c. Respondent shall not commence any Work except in conformance with the terms of this Order. Respondent shall not commence implementation of the Work Plan developed hereunder until receiving written EPA approval pursuant to Paragraph 30(b).

31. Health and Safety Plan. Within thirty (30) days after the Effective Date, Respondent shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-Site work under this Order. This plan shall be prepared in accordance with EPA’s Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration (“OSHA”) regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the plan shall also include contingency planning. Respondent shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

32. Quality Assurance and Sampling.

a. All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (“QA/QC”), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondent shall follow, as appropriate, “Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures” (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. Respondent shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 1994, “Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs” (American National Standard, January 5, 1995), and “EPA Requirements for Quality Management Plans (QA/R-2) (EPA/240/B-01/002, March 2001),” or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program (“NELAP”) as meeting the Quality System requirements.

b. Upon request by EPA, Respondent shall have such a laboratory analyze samples submitted by EPA for QA monitoring. Respondent shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

c. Upon request by EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples. Respondent shall notify EPA not less than 10 days in advance of any sample collection activity, unless shorter notice is agreed to by EPA. EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Respondent to take split or duplicate samples of any samples it takes as part of its oversight of Respondent's implementation of the Work.

33. Post-Removal Site Control. In accordance with the Work Plan schedule, or as otherwise directed by EPA, Respondent shall submit a proposal for post-removal site control consistent with Section 300.415(I) of the NCP and OSWER Directive No. 9360.2-02. Upon EPA approval, Respondent shall implement such controls and shall provide EPA with documentation of all post-removal site control arrangements.

34. Reporting.

a. Respondent shall submit a written progress report to EPA concerning actions undertaken pursuant to this Order every 15th day after the date of receipt of EPA's approval of the Work Plan until termination of the Work, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

b. Respondent shall submit 2 copies of all plans, reports or other submissions required by this Order, the Work Plan, or any approved work plan. Upon request by EPA, Respondent shall submit such documents in electronic form.

c. Respondent who owns or controls property at the Site shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice to the transferee that the property is subject to this Order and written notice to EPA of the proposed conveyance, including the name and address of the transferee. Respondent who owns or controls property at the Site also agree to require that their successors comply with the immediately proceeding sentence and Sections IX (Site Access) and X (Access to Information).

35. Final Report. Within one hundred twenty (120) days after completion of all Work required by this Order, Respondent shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Order. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC

Reports.” The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Order, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

“Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

36. Off-Site Shipments.

a. Respondent shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility’s state and to the On-Scene Coordinator. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

i. Respondent shall include in the written notification the following information: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Respondent shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

ii. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for the removal action. Respondent shall provide the information required by Paragraph 36(a) and 36(b) as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondent shall obtain EPA’s certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

IX. SITE ACCESS

37. If the Site, or any other property where access is needed to implement this Order, is owned or controlled by the Respondent, the Respondent shall, commencing on the Effective Date, provide EPA and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Order.

38. Where any action under this Order is to be performed in areas owned by or in possession of someone other than the Respondent, Respondent shall use their best efforts to obtain all necessary access agreements for the Respondent, as well as for the United States on behalf of the EPA, as well as their representatives, within thirty (30) days after the Effective Date, or as otherwise specified in writing by the OSC. Respondent shall immediately notify EPA if after using their best efforts they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondent shall describe in writing their efforts to obtain access. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate. Respondent shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (Payment of Response Costs).

39. Notwithstanding any provision of this Order, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

X. ACCESS TO INFORMATION

40. Respondent shall provide to EPA, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondent shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

41. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Order to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA, or if EPA has notified Respondent that the documents or information are not confidential under the standards of Section 104(e)(7)

of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondent.

42. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondent asserts such a privilege in lieu of providing documents, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

43. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

XI. RECORD RETENTION

44. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXVIII (Notice of Completion of Work), each Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXVIII (Notice of Completion of Work), Respondent shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

45. At the conclusion of this document retention period, Respondent shall notify EPA at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA, Respondent shall deliver any such records or documents to EPA. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

46. Each Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XII. COMPLIANCE WITH OTHER LAWS

47. Respondent shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

48. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Order, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, the Regional Duty Officer Response and Prevention Branch at 1-866-372-7745 of the incident or Site conditions. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondent shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Response Costs).

49. In addition, in the event of any release of a hazardous substance from the Site, Respondent shall immediately notify the OSC at 1-866-372-7745 and the National Response Center at (800) 424-8802. and the National Response Center at (800) 424-8802. Respondent shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

XIV. AUTHORITY OF ON-SCENE COORDINATOR

50. The OSC shall be responsible for overseeing Respondent's implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Order, or to direct any other removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

XV. PAYMENT OF RESPONSE COSTS

51. Payments for Future Response Costs.

a. Respondents shall pay \$21,500.00 to EPA within 30 days after the Effective Date of this Order for all Future Response Costs not inconsistent with the NCP.

b. Respondents shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party(ies) making payment and EPA Site/Spill ID number 06MN Respondents shall send the check(s) to:

EPA Superfund - Buffalo Compressor Superfund Site (06MN)
CERCLIS #: OK0000605396
Superfund Accounting
P.O. Box 360582M
Pittsburgh, Pennsylvania 15251
ATTN: COLLECTION OFFICER FOR SUPERFUND

c. At the time of payment, Respondent shall send notice that payment has been made to :

Chief Superfund Cost Recovery Section (6SF-AC)
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

d. The total amount to be paid by Respondents pursuant to Paragraph 51(a) shall be deposited in the Buffalo Compressor Station Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

52. In the event that the payment for Future Response Costs are not made within 30 days after the Effective Date, Respondents shall pay Interest on the unpaid balance. The Interest on Future Response Costs shall begin to accrue 30 days after the Effective Date and shall continue

to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII.

XVI. DISPUTE RESOLUTION

53. Unless otherwise expressly provided for in this Order, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Order. The Parties shall attempt to resolve any disagreements concerning this Order expeditiously and informally.

54. If Respondent objects to any EPA action taken pursuant to this Order, they shall notify EPA in writing of their objection(s) within 5 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondent shall have 5 days from EPA's receipt of Respondent's written objection(s) to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA.

55. Any agreement reached by the parties pursuant to this Section shall be in writing and shall, upon signature by both parties, be incorporated into and become an enforceable part of this Order. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Regional Judicial Officer level or higher will issue a written decision on the dispute to Respondent. EPA's decision shall be incorporated into and become an enforceable part of this Order. Respondent's obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

XVII. FORCE MAJEURE

56. Respondent agrees to perform all requirements of this Order within the time limits established under this Order, unless the performance is delayed by a *force majeure*. For purposes of this Order, a *force majeure* is defined as any event arising from causes beyond the control of Respondent, or of any entity controlled by Respondent, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Order despite Respondent's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance or a failure to attain cleanup levels set forth in the Action Memorandum.

57. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a *force majeure* event, Respondent shall notify EPA orally within five (5) days of when Respondent first knew that the event might cause a delay. Within 5 days thereafter, Respondent shall provide to EPA in writing an explanation and

description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

58. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Order that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondent in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. STIPULATED PENALTIES

59. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 60, 61 and 62 for failure to comply with the requirements of this Order specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by Respondents shall include completion of the activities under this Order or any work plan or other plan approved under this Order identified below in accordance with all applicable requirements of law, this Order, the Work Plan, and any plans or other documents approved by EPA pursuant to this Order and within the specified time schedules established by and approved under this Order.

60. Stipulated Penalty Amounts

Any failure by Respondent to perform a requirement of this Order is a violation of this Order. For each day, or portion thereof, that Respondent fails to perform, fully, any requirement of this Order (except for the submission of progress reports pursuant to Paragraph 34(a)) in accordance with the schedules established pursuant to this Order (including schedules established in EPA-approved submissions), Respondent shall pay stipulated penalties as follows:

Penalty per Day per
failure to perform a
requirement of this
Order:

Period of failure
to perform:

\$1,000
\$3,000
\$5,000

1 - 7 days
8 - 21 days
22 or more days

61. Stipulated Penalty Amounts - Progress Reports.

Any failure by Respondent to submit a timely or adequate progress report is a failure to perform a requirement of this Order and, accordingly, a violation of this Order. For each day, or portion thereof, that Respondent fails to submit a timely or adequate progress report pursuant to Paragraph 34(a) in accordance with the schedules established pursuant to this Order, Respondent shall pay stipulated penalties as follows:

Penalty per Day per
failure to submit a timely or
adequate progress
report:

Period of failure
to perform:

\$ 500
\$1,000
\$2,000

1 - 7 days
8 - 21 days
22 or more days

62. a) In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 72 of Section XX, Respondent shall pay a stipulated penalty in the amount of \$300,000.

b) For each failure to cease activity when the EPA OSC or EPA-designated site representative orders either an oral or written cessation or halt of activities pursuant to Paragraph 50 of this Order, the Respondents shall pay a stipulated penalty of \$27,500 per day.

63. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: 1) with respect to a deficient submission under Section VIII (Work to be Performed), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and 2) with respect to a decision by the EPA Management Official at the Regional Judicial Officer level or higher, under Paragraph 55 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final

decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Order.

64. Following EPA's determination that Respondents have failed to comply with a requirement of this Order, EPA may give Respondents written notification of the failure and describe the noncompliance. EPA may send Respondents a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

65. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures under Section XVI (Dispute Resolution). All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to:

EPA Superfund - Buffalo Compressor Superfund Site (06MN)
CERCLIS #: OK0000605396
Superfund Accounting
P.O. Box 360582M
Pittsburgh, Pennsylvania 15251
ATTN: COLLECTION OFFICER FOR SUPERFUND

Respondents shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number 06MN the EPA Docket Number 6-07-02, and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to:

Chief Superfund Cost Recovery Section (6SF-AC)
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

66. The payment of penalties shall not alter in any way Respondents' obligation to complete performance of the Work required under this Order.

67. Penalties shall continue to accrue during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

68. If Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 65. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Order or of the statutes and regulations upon which it is based, including, but not

limited to, penalties pursuant to Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 106(b) or 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of this Order or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX, Paragraph 72. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Order.

XIX. COVENANT NOT TO SUE BY EPA

69. In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Order, and except as otherwise specifically provided in this Order, EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for performance of the Work and for recovery of Future Response Costs. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Respondent of all obligations under this Order, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Respondent and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

70. Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

71. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Order is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondent to meet a requirement of this Order;
- b. liability for costs not included within the definition of Future Response Costs;
- c. liability for performance of response action other than the Work;

- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

72. Work Takeover. In the event EPA determines that Respondent has ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondent may invoke the procedures set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondent shall pay pursuant to Section XV (Payment of Response Costs). Notwithstanding any other provision of this Order, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY RESPONDENT

73. Respondent covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Response Costs, or this Order, including, but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or
- c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

Except as provided in Paragraph 75 (De Micromis Waivers), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 71 (b), (c), and (e) - (g), but only to the extent that

Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

74. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

75. Respondent agrees not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Respondent with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if

a. the materials contributed by such person to the Site containing hazardous substances did not exceed the greater of i) 0.002% of the total volume of waste at the Site, or ii) 110 gallons of liquid materials or 200 pounds of solid materials.

b. This waiver shall not apply to any claim or cause of action against any person meeting the above criteria if EPA has determined that the materials contributed to the Site by such person contributed or could contribute significantly to the costs of response at the Site. This waiver also shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person if such person asserts a claim or cause of action relating to the Site against such Respondent.

XXII. OTHER CLAIMS

76. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA shall not be deemed a party to any contract entered into by Respondent or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

77. Except as expressly provided in Section XXI, Paragraph 75 (De Micromis Waivers) and Section XIX (Covenant Not to Sue by EPA), nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

78. No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. CONTRIBUTION PROTECTION

79. The Parties agree that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for “matters addressed” in this Order. The “matters addressed” in this Order are the Work and Future Response Costs. Except as provided in Section XXI, Paragraph 75, of this Order (De Micromis Waivers), nothing in this Order precludes the United States or Respondent from asserting any claims, causes of action, or demands against any persons not parties to this Order for indemnification, contribution, or cost recovery.

XXIV. INDEMNIFICATION

80. Respondent shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Order. In addition, Respondent agrees to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Order. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out activities pursuant to this Order. Neither Respondent nor any such contractor shall be considered an agent of the United States.

81. The United States shall give Respondent notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

82. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

XXV. INSURANCE

83. At least 7 days prior to commencing any on-Site work under this Order, Respondent shall secure, and shall maintain for the duration of this Order, comprehensive general liability insurance and automobile insurance with limits of \$10 million dollars, combined single limit. Within the same time period, Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy. In addition, for the duration of the Order, Respondent shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of this Order. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. MODIFICATIONS

84. The OSC may make modifications to any plan or schedule or Work Plan in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of the OSC's oral direction. Any other requirements of this Order may be modified in writing by mutual agreement of the parties.

85. If Respondent seeks permission to deviate from any approved work plan or schedule or Statement of Work, Respondent's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 84.

86. No informal advice, guidance, suggestion, or comment by the OSC or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondent shall relieve Respondent of their obligation to obtain any formal approval required by this Order, or to comply with all requirements of this Order, unless it is formally modified.

XXVII. ADDITIONAL REMOVAL ACTION

87. If EPA determines that additional removal actions not included in an approved plan are necessary to protect public health, welfare, or the environment, EPA will notify Respondent of that determination. Unless otherwise stated by EPA, within 30 days of receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment, Respondent shall submit for approval by EPA a Work Plan for the additional removal actions. The plan shall conform to the applicable requirements of Section VIII (Work to Be Performed) of this Order. Upon EPA's approval of the plan pursuant to Section VIII, Respondent shall implement the plan for additional removal actions in accordance with the

provisions and schedule contained therein. This Section does not alter or diminish the OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXVI (Modifications).

XXVIII. NOTICE OF COMPLETION OF WORK

88. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with this Order, with the exception of any continuing obligations required by this Order, including payment of Future Response Costs, or record retention, EPA will provide written notice to Respondent. If EPA determines that any such Work has not been completed in accordance with this Order, EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the Work Plan if appropriate in order to correct such deficiencies. Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondent to implement the approved modified Work Plan shall be a violation of this Order.

XXIX. SEVERABILITY/INTEGRATION/APPENDICES

89. If a court issues an order that invalidates any provision of this Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Order, Respondent shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

90. This Order and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Order. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Order. The following appendices are attached to and incorporated into this Order:

Appendix A: Request for a Time-Critical Removal Action at the (May 20, 2002)

Appendix B: Site Vicinity Map and Site Map

Appendix C: Work Plan for the Removal Action submitted by Williams Gas Pipelines Central, Inc.

XXX. EFFECTIVE DATE

91. This Order shall be effective on the day it is signed by the EPA Region 6 Superfund Division Director.

It is so ORDERED and Agreed this _____ day of _____, 2____.

BY: _____ DATE: _____

Myron O. Knudson, P.E.
Superfund Division Director
Region 6
U.S. Environmental Protection Agency

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

IN THE MATTER OF:
Buffalo Compressor Station
Buffalo, Harper County, Oklahoma

ADMINISTRATIVE ORDER ON
CONSENT FOR REMOVAL ACTION

Williams Gas Pipelines Central, Inc.,

Respondent

U.S. EPA Region 6
CERCLA Docket No. 6-07-02

Proceeding Under Sections 104, 106(a), 107
and 122 of the Comprehensive
Environmental Response, Compensation,
and Liability Act, as amended, 42 U.S.C. §§
9604, 9606(a), 9607 and 9622

The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind Respondent to this document.

Agreed this ____ day of _____, 2____.

For Respondent Williams Gas Pipelines Central, Inc.

By _____

(Print or type name)

Title _____
(Print or type title)